

LABOUR DEPARTMENT

The 11th June, 1975.

No. 5520-4-Lab-75/18069.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the Management of M/s. Faridabad Complex Administration, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK.

Application No. 2 of 1973.

Complaint under section 33-A of the Industrial Disputes Act, 1947.

Between

SHRI MOR LAL AND THE MANAGEMENT OF FARIDABAD COMPLEX ADMINISTRATION, FARIDABAD.

Presents :

Shri R. C. Sharma, for the workman.

Shri A. S. Chadha, for the management.

AWARD

The facts relevant for the disposal of this complaint under section 33-A of the Industrial Disputes Act, 1947, may in brief, be stated as under.

Shri Mor Lal complainant allegedly joined service of the erstwhile Municipal Committee, N.I.T., Faridabad as a Mate on 19th April, 1961. His services were terminated on 13th February, 1965. Feeling aggrieved, he demanded reinstatement with full back wages with the allegation that the termination of his services had been brought about by the management in an illegal manner and without justification. The management did not accept his demand. This gave rise to an industrial dispute. The conciliation started on his demand notice also ended in failure and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this court on 12th August, 1968 with the following term of reference.

“Whether the termination of services of Shri Mor Lal was justified and in order? If not, to what relief is he entitled?”

The appointment of Shri P. N. Thukral my learned predecessor as the Presiding Officer of

the Labour Court at Faridabad was since held to be void in the case of M/s. Gedore Tools (India) Ltd., Faridabad, the dispute was re-referred to this court,—vide order, dated 31st July, 1970, the term of reference being the same as stated above.

It transpires that on 31st December, 1970, the respondent Municipal Committee appointed Shri Mor Lal as Sanitary Jamadar in a temporary capacity for a period of 3 months to begin with which was further extended from time to time. In the mean while the Municipal Committee, N.I.T., Faridabad ceased to exist as the Faridabad Complex Administration, Faridabad came into being and it was impleaded as a party to the reference on 13th November, 1972.

On 17th January, 1973, the present Administration dismissed Shri Mor Lal from service after placing him under suspension on several charges of mis-conduct and allegedly after holding a proper domestic enquiry. It is against the above dismissal order that the present complaint has been brought by him. His contention is that no mis-conduct had been committed by him nor any proper enquiry been held against him. He has further alleged that during the pendency of reference No. 135 of 1970 in which he was the workman directly concerned, the management could not take the impugned action against him without seeking the prior permission or approval of the court and that being so he is entitled to reinstatement and payment of back wages.

The respondent Administration has contested the complaint as being frivolous and without any basis. It has been pleaded that Shri Mor Lal was guilty of serious charges of misconduct in the discharge of his duties which were established against him in a proper and impartial enquiry and, therefore, the Administration was fully competent to dismiss him from service.

The following issue arose for determination in the case.

1. Whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 and if so, to what relief is the complainant entitled to?

The management has placed on record as many as 31 documents including the enquiry proceedings, Ex-M. 1. order, dated 15th April, 1971, regarding appointment of Shri Mor Lal as Sanitary Jamadar, with effect from 31st December, 1970, Ex. M. 2 letter of appointment, dated 30th April, 1971, Ex. M. 3 order of his suspension, dated 9th August, 1972, Ex. M. 4 charge-sheet, dated 12th August, 1972, Ex. M. 5 another charge-sheet, dated 15th September, 1972, Ex. M. 6 explanation of Shri Mor Lal to the first charge-sheet,

Ex. M. 7, dated 13th September, 1972, his explanation to the other charge-sheet, Ex. M. 8 the report, dated 17th November, 1972 of the Enquiry Officer, Ex. M. 9 show cause notice, dated 12th December, 1972 given to Shri Mor Lal, Ex. M. 10 his explanation to the show-cause notice, Ex. M. 11 the dismissal order, dated 17th January, 1973, Ex. M. 12 appointment letter of Shri T. D. Jatwani as Enquiry Officer, Ex. M. 13 record of the enquiry proceedings signed by Shri Mor Lal, Exs. M. 14 to M. 28 bills submitted by Shri Mor Lal, allegedly for the supply of earth, Ex. M. 29 application, dated 1st March, 1966 of Shri Mor Lal for the removal of his name from the list of Contractors, Ex. M. 30, another letter, dated 15th March, 1966 of the same nature and Ex. M. 31 complaint, dated 11th December, 1972 made by Shri Mor Lal to the Labour Inspector, regarding his alleged victimization by the respondent Administration.

S/Shri S. N. Somastam formerly Secretary of the erstwhile Municipal Committee, N.I.T., Faridabad and now the Establishment Officer of the respondent Administration M.W. 1 and Shri T. D. Jatwani, Enquiry Officer have come into the witness-box to prove the above documents and the enquiry against Shri Mor Lal.

Shri Mor Lal complainant has himself come into the witness-box and made detailed statement about his appointment and dismissal from service. He has placed reliance upon 7 documents, namely, Ex. W. 1 his application, dated 18th October, 1972 addressed to the Enquiry Officer asking for the names of the witness, copies of the rules and regulations and the bye-laws and permission to engage Shri H. R. Dua as his legal advisor in the enquiry, Ex. W. 2 reply, dated 24th October, 1972 of the Enquiry Officer that the Administration had not agreed to allow him to be represented by Shri H. R. Dua and that names of the witnesses could not be disclosed at that stage as the enquiry has not yet started but the copy of the bye-laws was being supplied to him, Ex. W. 3 copy of the bye-laws, Ex. W. 4 leave application, dated 28th August, 1972 of Shri Mor Lal asking for grant of leave from 21st August, 1972 to 25th August, 1972, Ex. W. 5 note of the Secretary on this application that Shri Mor Lal had verbally requested him for leave before proceeding, Ex. W. 6 note of the Chief Administrator that he should have been informed before hand about the matter and Ex. W. 7 his own statement before the Enquiry Officer.

The case has been well argued by the learned representative of the complainant and elaborate written arguments have been filed by the learned representative of the respondent Administration. I have given a very careful thought to the facts on record and the contentions raised on both sides.

It has been contended on behalf of the respondent Administration that no relationship of

employer and employee existed between the parties, that there was no reference pending against the respondent Administration, that in the circumstances, the question of the contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 in the case did not at all arise. It has further been argued that Shri Mor Lal the present complainant was guilty of serious charges of mis-conduct, one of the charges being his mis-behaviour towards his senior officer Shri S. K. Sharma in using filthy language against him, that these charges were fully established against him in an independent enquiry and, therefore, the respondent Administration was fully justified in dispensing with his services. I am afraid, the contentions are not fully warranted by the material on record. Shri Mor Lal was admittedly in the service of the erstwhile Municipal Committee, N.I.T., Faridabad as a Mate when his services were terminated on 13th February, 1965. He had raised a dispute against the order of termination of his services which was referred for adjudication to this court and registered as reference No. 135 of 1970. After the reference of this dispute he was even given fresh appointment as a Sanitary Jamadar, with effect from 31st December, 1970. The erstwhile Municipal Committee, N.I.T., Faridabad having since been replaced by the Faridabad Complex Administration, Faridabad, the present respondent in the case. It can not be said by any stretch of imagination that no relationship of employer and employee existed between the parties. The present administration is the employer of the complainant as also of the other employees of the erstwhile Municipal Committee, N.I.T., Faridabad to all intents and purposes. There is no denying the fact that reference No. 135 of 1970 was pending, and is still pending, adjudication before this court when the impugned action of dismissal of Shri Mor Lal from the job of Sanitary Jamadar was taken on 13th November, 1972. The contention of the learned representative of the respondent Administration that there was no relationship of employer and employee between the parties and that there was no pendency attract the provisions of section 33 of the Industrial Disputes Act, 1947 is, therefore, fallacious. The original reference was no doubt against the erstwhile Municipal Committee, N.I.T., Faridabad which was then in existence. The Faridabad Complex Administration having subsequently been formed was impleaded as a party to the present reference, vide order, dated 13th November, 1972 of the court. The correctness of that order has not been challenged and the respondent Administration has taken part in the present proceedings to contest the complaint of Shri Mor Lal.

The reference No. 135 of 1970 which is pending adjudication before this court was made at the instance of Shri Mor Lal who had challenged the validity of the termination of his services as a Mate on 13th February, 1965. Apparently, he was the workman directly concerned in the said

reference. Admittedly, no prior permission of the court was obtained before taking the impugned action of dismissal from service from the job of Sanitary Jamadar on 17th January, 1973 nor was any approval application simultaneously filed in the court, as contemplated under section 33-2(b) of the Industrial Disputes Act, 1947. It is thus a clear case of the contravention of the provisions of section 33 because it was mandatory on the part of the respondent Administration either to obtain prior permission or seek approval of the action of dismissal from service taken against the present complainant during the pendency of the said reference. But for reasons best known to the respondent Administration the above mandatory provisions of the law were not complied with.

Then comes the question of the charges of mis-conduct levelled against Shri Mor Lal and the enquiry said to have been conducted against him into those charges. It has been strongly argued by the learned representative of the respondent Administration that these charges were duly proved, in a just and proper enquiry held by Shri T. D. Jatwani. This argument even false to the ground on a careful scrutiny of the enquiry proceedings read with the enquiry report and the statement of the Enquiry Officer. As would be clear from the charge-sheet Ex. M. 4 and M. 5, the following allegations were made against Shri Mor Lal.

1. Exciting Shri Kamar Chand, Sweeper (under suspension) for not getting the enquiry conducted by Dr. S. N. Sharma, Medical Officer of Health, in his case.
2. Interfering in the enquiry proceedings in the case of Shri Kamar Chand, Sweeper and entering in the Enquiry Room without permission and in unauthorised manner.
3. Misbehaving with Dr. S. N. Sharma, Medical Officer of Health using insulting and abusive language towards him in his office when he was busy in conducting the enquiry, in the presence of several officials.
4. He failed to mark his attendance in the office of the N.I.T. Zone Faridabad from 21st August, 1972 to 25th August, 1972 and also left the station without prior permission from the competent authority.

From the report of the Enquiry Officer Ex. M. 8 on record itself it is clear that the first 2 charges were not established against Shri Mor Lal. He no doubt found him guilty of charges Nos. 3 and 4. It is not safe to rely upon the findings of the Enquiry Officer with regard to these

charges for the simple and obvious reason Shri Mor Lal complainant the workman concerned is not shown to have been given adequate opportunity of defending himself in the enquiry. Vide his letter, dated 18th October, 1972 addressed to the Enquiry Officer he had asked for the names of the witnesses and permission to be represented by Shri H. R. Dua as his legal advisor in the enquiry and also for the supply of the rules and regulations and the bye-laws. Except for the supply of the bye-laws his other request was not acceded to. The names of the witnesses to be examined in the enquiry against him were not disclosed to him. It has vehemently been argued that the Enquiry Officer was favourably inclined towards Shri S. N. Sharma the Medical Officer, while giving his findings of guilty against Shri Mor Lal in respect of charge No. 3 regarding alleged mis-behaviour and use of filthy language against Shri S. N. Sharma, the Medical Officer. The Enquiry Officer has not discussed any evidence nor has given any reasons in support of his findings. This may be said with regard to the charges Nos. 1 and 2 also in respect of which he has given the benefit of doubt to Shri Mor Lal. The enquiry report is rather brief, sketchy and perfunctory.

So for charge No. 4 regarding the absence from duty of Shri Mor Lal from 21st August, 1972 to 25th August, 1972 is concerned the finding of the Enquiry Officer is even perverse. From the note of the Officer concerned Ex. W. 5 on the reverse of the leave application Ex. W. 4 of Shri Mor Lal it is clear beyond any shadow of doubt that he had been given verbal permission to proceed on leave when he had been approached by Shri Mor Lal that he had urgent work for which he had to go out. In his cross-examination, the Enquiry Officer coming into the witness box as M. W. 2 in the present proceedings has admitted in clear and un-ambiguous words that he had not disbelieved this version of Shri Mor Lal given by him in his statement Ex. W. 7 mark 'A' given before him in the enquiry. It is difficult to imagine how Shri Mor Lal could be held guilty of proceedings on leave without permission relating to charge No. 4 given, vide the charge-sheet Ex. M. 5, especially when the Enquiry Officer had himself not disbelieved the aforesaid explanation of Shri Mor Lal in respect of this charge.

So, taking into consideration all the facts and the circumstances of the case discussed above, I am quite clear in my mind that no just and proper enquiry was held against the present workman and he could not be held guilty of charges Nos. 3 and 4 on the basis of the brief and perfunctory report of the Enquiry Officer who has not discussed in detail all the facts brought before him nor any given detailed reasons in support of his findings. It will not be out of place to mention here, that Shri S. N. Sharma against whom the present complainant was alleged to have

misbehaved by using insulting and abusive language has not been examined as a witness in the present complaint.

As already pointed out, there was a pendency before this court in which Shri Mor Lal complainant was the workman directly concerned and the impugned action of dismissal from service could not legally be taken against him during the pendency of the reference without the prior permission or simultaneously moving an approval application, as contemplated under section 33-2(b) of the Industrial Disputes Act, which course has admittedly not been adopted by the respondent Administration, the employer of the complainant. On the facts established and for the reasons aforesaid, therefore, the issue is decided in favour of the workman and against the respondent Administration..

The complaint, in the result, is allowed and by quashing the impugned order of dismissal from service of Shri Mor Lal complainant the

No. 5519-4Lab-75/18077.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana State Electricity Board, Chandigarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 54 of 1973

between

SHRI DARYAI LAL AND THE MANAGEMENT OF THE HARYANA STATE ELECTRICITY BOARD, CHANDIGARH

Present.—

Shri Raghubir Singh, for the workman.
Shri R. L. Gupta, for the management.

AWARD

Shri Daryai Lal concerned workman was in the service of the Haryana State Electricity Board, Chandigarh as a Driver at Rs 237 Per mensem and was posted in Sub-Division Panipat. His services were allegedly terminated with effect from 24th May, 1972 on the basis of his resignation. He raised a demand for reinstatement alleging that his so-called resignation had been obtained by fraud and misrepresentation that it was a letter of his being deputed for duty at Ambala and in the circumstances, the termination of his services was illegal and not justified and he was entitled to reinstatement. The management did not accept his above demand. The matter was taken up before the Conciliation Officer by means of demand notice dated 16th August, 1972. The management did not show any willingness to take him back on duty and the conciliation ended in failure.

On receipt of the failure report from the Conciliation Officer, the dispute was referred for adjudication to this court,—vide order No. ID/KNL/4-B-72/33506-600, dated 26th July, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the term of reference being given as under:—

“Whether the termination of services of Shri Daryai Lal was justified and in order? If not, to what relief is he entitled?”

The parties put in their respective pleadings. The workman reiterated his claim for reinstatement and payment of back wages as earlier raised through the demand notice leading to the reference contending that he had never any intention of giving up service as Driver and that his resignation was

respondent is directed to reinstate him with continuity of previous service and full back wages. He is also awarded Rs. 100 as the costs of the present proceedings.

The 28th May, 1975.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 1411, dated the 2nd June, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

obtained by fraud. The management on the other hand, pleaded that the said resignation by the workman had been made of his own sweet will and without any force or fraud on the part of the officer concerned. It was further urged that the demand, the subject-matter of the present reference, had not been first raised on the management and rejected by it before taking up the matter for conciliation and as such no industrial dispute existed between the parties which could validly be referred for adjudication to this court.

The following issues arose for determination in the case:—

- (1) Whether the demand the subject-matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ?
- (2) Whether the present case is covered by section 2-A of the Industrial Disputes Act, 1947 ? If not, with what effect ?
- (3) In case issue No. 2 is not proved whether the termination of service of Shri Daryai Lal was justified and in order ? If not, to what relief is he entitled ?

Shri Daryai Lal, workman concerned has made his own statement and relied upon several documents including the complaint dated 1st June, 1972 addressed to the Chairman of the Haryana State Electricity Board Exhibit W. 1, demand notice dated 16th August, 1972 Exhibit W. 2, reply received from the management Exhibit W. 3, another letter received from the management Exhibit W. 4, copies of certificates of good work and conduct given to him by different officers Exhibits W. 5 to W. 7 and medical certificate, dated 27th September, 1971 Exhibit W. 8.

On the other hand, Shri D. P. Malik, Assistant Engineer, Haryana State Electricity Board, Chandigarh has come into the witness box as M. W. 1 and stated that there were some allegations of theft of wire gauge belonging to the contractor against Shri Daryai Lal and when the matter was to be brought to the notice of the higher authorities he submitted his resignation of his own accord which was duly accepted by the competent authority. He has proved the resignation Exhibit M. 1 and the report of the S. D. O. Karnal to the Executive Engineer, Ambala Cantt., regarding the alleged theft of wire gauge by Shri Daryai Lal.

The case has been fully argued on both sides and I have given a considered thought to the material on record. As already pointed out the termination of the present workman was brought about with effect from 24th May, 1972 allegedly on the basis of his own resignation. He had made a complaint to the Chairman of the Board on 1st June, 1972 that the resignation had been obtained by fraud and he was entitled to reinstatement. The demand notice whereupon conciliation proceedings were initiated and on the basis of which the present reference was made was given by him much later on 16th August, 1972. In the circumstances, the management cannot be heard to say that the demand was not first raised on it and rejected by it before the matter was taken up for conciliation. He had received letters of which copies Exhibits W. 3, W. 4 are on record and a perusal of these letters would show that the demand of the workman for reinstatement was not accepted. It is thus apply proved that before starting conciliation and reference of the dispute the workman had directly raised the demand on the management which was turned down and this clearly constituted an industrial dispute within the meaning of the law as laid down in the oft-quoted authority of the Supreme Court in the Sindhu Resettlement Corporation case. The contention raised by the management in this behalf being thus without any substance, issue No. 1 is decided in favour of the workman.

Issues Nos. 2 and 3 are more or less inter-connected and may safely be taken up together. The present reference has been made by the workman under section 2-A of the Industrial Disputes Act, 1947 which relates to cases of dismissal, discharge, termination and retrenchment of service and not to a case of voluntary resignation of the service by the workman himself. So, for the proper adjudication of the dispute in the instant case, the material question which arises for determination is whether the resignation of the present workman, which purports to have been accepted on 24th May, 1972, was obtained by fraud or coercion or it was a voluntary resignation submitted by him of his own sweet will. The Assistant Engineer Shri D. P. Malik M. W. 1 has sworn testimony to the fact that some complaints about the theft of wire gauge belonging to the contractor had been received against this workman and since the matter had to be brought to the notice of the higher authorities he had submitted the resignation in question of his own will to escape prosecution or disciplinary action by way of punishment. There is apparently no reason to disbelieve this statement of Shri D. P. Malik M. W. 1 especially when Shri Daryai Lal workman has admitted in his own statement that Shri Malik had no prejudice or illwill against him. There is no doubt that he had made a complaint to the Chairman of the Board on 1st June, 1972 before the acceptance of the resignation was communicated to him that the resignation had been obtained by fraud. But there is no satisfactory evidence to substantiate this allegation. The certificates of good and satisfactory work Exhibit W. 5 to W. 7 produced by him also are of no help to him. There was no bar to his submitting the resignation of his own free-will particularly, in the circumstances, referred to above, even if his work and conduct in the past had been satisfactory. From his statement read as a whole it is further clear that he was not prepared to produce a fitness certificate nor did he want to be made a regular or permanent employee. The

reason given by him rather funny that he did not want to be made permanent as in that event he was likely to be transferred to other different places while his own wish was to remain posted at the place of his residence at Panipat. It is quite understandable that he might be prepared to forego his right of being made regular or permanent employee for the aforesaid reason. But he had no reasonable excuse not to produce the fitness certificate from the Medical Officer which was necessary for him to work as a Driver.

It is thus a clear case of voluntary resignation of his service by the workman concerned without any force or fraud on the part of the officer concerned to whom the resignation was submitted and as such, the case is not covered by section 2-A of the Industrial Disputes Act, 1947. In the circumstances, there was no question of any illegal, *mala fide* or unjustified action on the part of the management in putting an end to his services which automatically came to an end on the acceptance of his resignation. The cash being not covered by section 2-A of the Industrial Disputes Act, no industrial dispute existed between the parties which could validly be referred for adjudication to this court. Even otherwise, the workman having voluntarily submitted his resignation whether to escape the ordeal of being prosecuted or punished on the charge of theft of the wire gauge belonging to the contractor or for other reasons best known to him, he has no well-founded claim for reinstatement. Both the issues are, therefore, decided against him and the award is accordingly made holding that in view of his voluntary resignation which was duly accepted, the workman has no right to claim reinstatement or payment of back wages. There shall be no order as to costs.

Dated the 31st May, 1975.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1410, dated 2nd June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 19th June, 1975

No. 5791-4Lab-75/18746.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Complaint No. 34 of 1973 under section 33-A

between

SHRI RAM PHAL, WORKMAN AND THE MANAGEMENT OF M/S SUPREME STEEL
ROLLING AND ALLIED INDUSTRIES, BAHADURGARH

Present.—

Shri Rajinder Singh Dhayia, for the workman.

Nemo, for the management.

AWARD

Shri Ram Phal an employee of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh brought this complaint under section 33-A of the Industrial Disputes Act, 1947 with the allegation that during the pendency of Reference No. 4 of 1972 in which he was a workman concerned, the management had discharged him from service without obtaining prior permission of this Tribunal nor had he been paid notice pay for one month. The respondent contested the complaint on merits pleading *inter alia* that it was not maintainable under law.

No issue have yet been framed nor has any evidence been led on either side. It is, however, not necessary to go into the merits of the complaint because the complainant Shri Ram Phal has addressed an application dated 5th January, 1975 that this complaint has been filed against his wishes and he does not want to proceed with the same. Shri Rajinder Singh Dhayia who represents him has nothing to say against this application made by the complainant.

In view of the above, the complaint shall stand dismissed as withdrawn. No order as to costs.

Dated 7th June, 1975.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 963, dated the 7th June, 1975.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated 7th June, 1975.

[Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5795-4Lab-75/18748.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Textiles, Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 3 of 1975

between

THE WORKMEN AND THE MANAGEMENT OF M/S HARYANA TEXTILES,
ROHTAK

Present.

Shri Richpal Singh, for the workman.

Shri Mohinder Lal Sharma, for the management.

AWARD

The management of M/s Haryana Textiles, Rohtak, brought under retrenchment its workmen, namely, Randhir Singh, Chander Bhan, Rishi Parkash, Sumar Singh, Jagdish, Ram Diya, Dharra Singh, Gopal Singh, Sham Sunder, Meera Devi, Ram Dulari, Ganga Devi, Sumitra Devi, Ram Kali, Ram Kawari, Godavari, Kaushala and Prem Wati. Feeling aggrieved they demanded reinstatement but without success. This gave rise to an industrial dispute. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this Tribunal,—vide order No. 1D/RK/670-74/41248, dated 30th December, 1974, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, with the following terms of reference:—

Whether the action of the management in retrenching the workmen mentioned in Annexure 'A' was justified and in order? If not, to what relief are they entitled?

Some of the workers had arrived at an settlement with the management. Statements have been recorded. Sarvshri Jagdish Ram, Ram Diya, Dharra Singh, Sham Sunder, Shrimati Ganga Devi, Shrimati Godawari and Shrimati Kaushala have tendered their resignations and received their dues, in full and final settlement of their entire claims against the management including the right of reinstatement or re-employment and as such they are not entitled to any other relief. So far as Sarvshri Chander Bhan, Rishi Parkash, Sumar Singh, Gopal Singh are concerned, the management has agreed to reinstate them with effect from date/dates they report for duty but they would not be entitled to back wages. The intervening period would, however, be treated as leave without wages.

Shri Randhir Singh has withdrawn his claim and is not entitled to any relief by way of reinstatement or payment of back dues.

No settlement has yet been arrived at with the remaining workers Shrimati Meera Devi, Ram Dulari, Ganga Devi, Sumitra Devi, Ram Kali and Ram Kuwarl.

In view of the above an interim award is made in terms of the above settlement so far as the workers, namely, Jagdish, Ram Dhiya, Dharra Singh, Sham Sunder, Ganga Devi, Godawari, Kaushala, Chander Bhan, Rishi Parkash, Sumar Singh and Gopal Singh are concerned. Jagdish, Ram Dhiya, Dharra Singh, Sham Sunder, Shrimati Ganga Devi, Godawari and Kaushala having tendered their resignations and received dues in full and final settlement of their claims are not entitled to any other relief. The management shall reinstate Sarvshri Chander Bhan, Rishi Parkash, Sumar Singh and Gopal Singh with effect from date/dates they report for duty but they would not be entitled to any back wages. The intervening period would, however, be treated as leave without wages. Shri Randhir Singh having withdrawn his claim is not entitled, to any relief by way of reinstatement or payment of back dues. There shall be no order as to costs.

The case shall proceed further for the adjudication of the dispute of the remaining workers who have not yet arrived at any settlement with the management. To come up on 2nd July, 1975, at Rohtak for further proceedings.

Dated 5th June, 1975

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 960, dated 5th June, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 5th June, 1975

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5792-4Lab-75/18752. --In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s United Steel and Allied Industries, B-37, Modern Industrial Estate, Bahadurgarh (Rohtak).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,

HARYANA, FARIDABAD

Reference No. 23 of 1975

between

THE WORKMEN AND THE MANAGEMENT OF M/S UNITED STEEL AND ALLIED INDUSTRIES, B-37, MODERN INDUSTRIAL ESTATE, BAHADURGARH (ROHTAK)

Present -

Shri Onkar Parshad, for the workman.

Shri T. R. Sharma for the management.

AWARD

The following dispute between the management of M/s United Steel and Allied Industries, B-37, Modern Industrial Estate, Bahadurgarh (Rohtak) and its workmen was referred for adjudication to this Tribunal, —vide order No. ID/RK/17-A-74/2776 dated 20th January, 1975, of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the management should construct a cycle stand for the workmen of the factory?
If so, with what details?

Usual notices were given to the parties who have arrived at an amicable settlement. Their statements have been recorded.

According to the settlement, the management, has agreed to construct a cycle stand in the factory premises within a period of six months from today.

In view of the above no further proceedings are called for and the award is made in terms of the settlement arrived at between the parties.

Dated 6th June, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No 964, dated 7th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 7th June, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5785-4Lab-75/18757.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Gedore Tools (India) Private Limited., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 211 of 1974

between

SHRI C. S. PAWA, WORKMAN AND THE MANAGEMENT OF M/S GEDORE TOOLS
(INDIA) PRIVATE LIMITED., FARIDABAD

Present—

Shri C. S. Pawa, workman concerned, in person

Shri W. S. Jolly, Personnel Officer, for the management

AWARD

By order No. ID/FD/54-A-74/32039, dated 12th September, 1974, of the Governor of Haryana, the following dispute between the management of M/s Gedore Tools (India) Private Limited, Faridabad, and its workman Shri C. S. Pawa was referred for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services/dismissal of Shri C. S. Pawa was justified and in order?
If not, to what relief is he entitled?

The parties have arrived at an amicable settlement outside the Court as per terms and conditions given in the memorandum of settlement dated 31st May, 1975 Exhibit M-1 which is signed by Shri C. S. Pawa and witnessed by two other persons Sarvshri Paras Ram and S. M. Bangia. Shri K. D. Bakshi, Executive Officer, has signed it on behalf of the management and Shri W. S. Jolly, Personnel Officer has also witnessed it.

Statements of the parties have been recorded. Shri C. S. Pawa has received payment of Rs. 875 in full and final settlement of his entire claim against the management giving up his right of reinstatement or re-employment.

In view of the above settlement arrived at between the parties, no further proceedings are called for and a no-dispute award is given in terms of the settlement holding that Shri C. S. Pawa, workman concerned, is not entitled to any other relief. There shall be no order as to costs.

Dated 31st May, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 950, dated 3rd June, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 23th June, 1975

No. 5770-4Lab-75/19256.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s N. R. Industries, Bahadurgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No 47 of 1974

between

SHRI FATEH CHAND AND THE MANAGEMENT OF M/S N. R. INDUSTRIES,
BAHADURGARH

Present :

Shri Rajinder Singh for the workman.

Nemo for the management.

AWARD

Shri Fateh Chand workman concerned was in the service of M/s N. R. Industries Bahadurgarh as a Mistri since November, 1973. His services were allegedly terminated with effect from 28th January, 1974 without any charge-sheet or warning. Feeling aggrieved, he demanded reinstatement and approached the Proprietor as well as the Manager of the factory for several days with the request that he should be taken back on duty as he had not committed any fault or misconduct. The management, however, did not accept his request. This gave rise to an industrial dispute.

On his demand notice dated 31st January, 1974, conciliation proceedings were instituted which also ended in failure. On receipt of the failure report from the Conciliation Officer the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this court,—vide order No. ID/RK/195/B/74/18633-37, dated 4th July, 1974, with the following term of reference.

“Whether the termination of services of Shri Fateh Chand was justified and in order? if not, to what relief is he entitled?”

The parties were called upon to put in their respective pleadings. The workman concerned filed the statement of claim on 26th September, 1974. None appeared on behalf of the management on that date and the case was adjourned to 8th November, 1974. On that date also, nobody appeared on behalf of the management when the case was taken up in the early hours of the day and it was, therefore, directed that the case shall proceed *ex parte* against the management and would come up for *ex parte* evidence of the workman in support of his claim on 6th January, 1975 at that stage Shri N. M. Chadha authorised representative of the management appeared and a copy of the statement of claim was supplied to him with the direction that the written statement shall positively be filed on 6th January, 1975 with copy to the workman at least 15 days in advance so that he might come prepared with his rejoinder, if any required.

The management, however, did not file the written statement on that date and a telegraphic request for adjournment was received which was opposed on behalf of the workman concerned. The adjournment asked for was, however, granted subject to the payment of Rs. 50 as costs and the case was adjourned to 3rd April, 1975. Costs were not paid nor was any written statement filed on the date fixed. The management in fact, elected not to appear and take part in the proceedings. In the circumstances, there was no alternative but to proceed *ex parte* against the management.

Shri Fateh Chand workman concerned has made his own statement that he was appointed as a Mistri in November, 1973, and his monthly wages were fixed at Rs. 1250 with a assurance that after 3

months the same will be raised to Rs. 1500 P. M. But the management put him off with exercise or the other and ultimately terminated his services on 28th January, 1974, without giving him any charge-sheet, warning or assigning any reason except that the factory was going to be closed. According to him, the factory was never closed and is still working. He has further stated that he tried for alternative job in several factories at Bahadurgarh, Sonapat and Bahalgarh but without success and has not been gainfully employed anywhere.

I have given due consideration to the facts on record. There is apparently no reason to disbelieve the sworn testimony of the workman concerned especially when the management is not coming forward to file any written statement and contest his claim in spite of getting to adjournments, one on the condition of payment of Rs. 50 as costs which have also not been paid. The workman appears to be a truthful person and his claim is found to be genuine.

The issue involved as per the term of reference is, therefore, decided in favour of the workman holding that the termination of his services was not justified and in order and he is entitled to reinstatement with continuity of previous services and full back wages. The award is accordingly made, No order as to costs.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated 4th June, 1975.

No. 1456, dated the 9th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 20th June, 1975

No. 5786-4L-75/19269.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Anand Industrial Corporation, 13/7, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 20 of 1973

between

SHRI RAM BAHADUR SINGH, WORKMAN AND THE MANAGEMENT OF M/S
ANAND INDUSTRIAL CORPORATION, 13/7, MATHURA ROAD, FARIDABAD

Present:—

Shri Ram Bahadur Singh workman concerned with Shri Roshan Lal Sharma.

Shri S. L. Gupta, for the management.

AWARD

Shri Ram Bahadur Singh was in the service of M/s Anand Industrial Corporation, 13/7, Mathura Road, Faridabad. The following dispute between him and the management was referred for adjudication to this Tribunal by order No. ID/FD/72/10719, dated 15th March, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Ram Bahadur Singh was justified and in order? If not, to what relief is he entitled?”

The parties have put in their respective pleading and necessary issues have been framed. It is, however, not necessary to go into the merits of the case and the issues involved as an amicable settlement has been arrived at. Statements of the parties have been recorded.

According to the settlement, the management has agreed to pay to Shri Ram Bahadur Singh, workman concerned, his earned wages, wages for earned leave, bonus for the year 1972-73 if due and wages for two months as *ex gratia* in full and final settlement of his entire claim including gratuity and the right of reinstatement or re-employment. The workman concerned has accepted the above term of reference and has given up his right of reinstatement or re-employment. The amount due has to be paid to the workman within one month from today.

The award is accordingly made in terms of the above settlement arrived at between the parties. The management shall pay to the workman within one month from today his earned wages, wages for earned leave, bonus for the year 1972-73, if due, wages for two months as *ex gratia*, in full and final settlement of his entire claim including gratuity, and he shall have no right to reinstatement or re-employment. In the circumstances, there shall be no order as to costs.

Dated the 2nd June, 1975.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No 951, dated the 3rd June, 1975.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 3rd June, 1975,

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5783-4Lab-75/19271.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Munjal Brothers Bahadurgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 94 of 1974

between

SHRI RAM DHAN, AND THE MANAGEMENT OF M/S MUNJAL BROTHERS,
BAHADURGAHR

Present. —

Shri Onkar Parshad for the workman.

Nemo for the management.

AWARD

Shri Ram Dhan workman concerned was in the service of M/s Munjal Brothers, Bahadurgarh. His services were terminated by the management on 24th June, 1974. He demanded reinstatement but without success. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court,—vide order No. ID/RK/154-A-74/39941-45 dated 12th December, 1974, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Ram Dhan was justified and in order ? If not, to what relief is he entitled ?”

The parties have arrived at an amicable settlement as stated by Shri Onkar Parshad, authorised representative of the workman concerned. According to him, the workman has instructed him not to proceed with the reference as he has entered into an amicable settlement with the management and does not claim any relief in the present reference.

In view of the above, no further proceedings are called for and a no dispute award is given holding that the workman concerned having elected not to proceed with the present reference on account of the settlement arrived at with the management he is not entitled to any relief in the present case. There shall, however, be no order as to costs.

Dated the 4th June, 1975.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1455, dated 9th June, 1975.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 5784-4Lab-75/19275.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Textiles, Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 75 of 1974

between

SHRI RAJINDER PARSHAD AND THE MANAGEMENT OF M/S HARYANA
TEXTILES, ROHTAK

Present :

Shri Richhpal Singh for the workman.

Shri Mohinder Lal Sharma for the management.

AWARD

The following dispute between the management of M/s. Haryana Textiles, Rohtak and its workman Shri Rajinder Parshad was referred for adjudication to this court,—*vide* order No. ID/RK/67-I-74/35779-803, dated 23rd October, 1974 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Rajinder Parshad was justified and in order ? If not, to what relief is he entitled?”

The parties have arrived at an amicable settlement. Their statements have been recorded. According to the statement made by Shri Mohinder Lal Sharma, Partner-in-Manager of the concern Shri Rajinder Parshad workman has been paid Rs 600 in full and final settlement of his entire claims against the management, including the right of reinstatement or re-employment against voucher Ex. M.1. He has further proved the application Ex. M. 2 made by Shri Rajinder Parshad workman admitting the above settlement. Shri Richhpal Singh authorised representative of the workman has stated that he has no instructions from him to refute the plea of the above settlement raised by the management and proceed with the reference.

In view of the above, no further proceedings are called for and no dispute award is given in terms of the above settlement arrived at between the parties holding that Shri Rajinder Parshad, the workman concerned is not entitled to any other relief by way of reinstatement etc. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

The 3rd June, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1454, dated 9th June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.